

From: Bill Y.
To: Microsoft ATR
Date: 1/24/02 11:43am
Subject: Microsoft Settlement

Sirs:

I would like to comment on the proposed settlement in the Microsoft antitrust suit.

I find the proposed settlement both insufficient and unenforceable.

Here are some justifications for that statement.

A) Not-for-profits fail to be represented. This essentially disenfranchises the second-largest operating systems group in the world (that being Linux) as well as the single most common web server software (that being Apache) as well as the most common file server (that being Samba). III(j)(2) specifies that non-profits need not receive API, Documentation or Communications Protocols, the proposed "relief from monopoly" actually encourages further monopolistic practices on the part of Microsoft.

B) Section III(d) allows Microsoft to determine who is to be permitted access to interoperability data (thereby allowing Microsoft to freeze out any up-and-coming competitor), thus ensuring that Microsoft will continue to be a defacto monopoly.

C) The final issue, enforcibility, is due to the penalty clause should Microsoft violate the terms of the agreement. Simply stated, the sole penalty is that Microsoft would suffer, should they violate the terms, is to have the time duration of the agreement extended.

This would imply that Microsoft could accept the agreement in court, the judge could bang the gavel and close the case, and then Microsoft could literally rip up the agreement on the court house steps, because the only penalty for disobeying the agreement is to have the agreement extended in duration- which, if you're disobeying the agreement in the normal course of doing monopoly business, is no impediment to the monopoly business at all. That's no penalty at all.

Having followed the original trial case with great interest, I would recommend a far more severe penalty for Microsoft, including adding

the following penalties:

- 1) adding significant fines (on the order of 10% of the total market value of Microsoft)
- 2) requiring, within 2 years, forced divestiture of the following business segments from Microsoft's core (operating system) business:
 - optional and office software
 - network / ISP services
 - mass media, entertainment services, entertainment devices
- 3) adding a penalty that bars Microsoft from bidding on any government sales when in violation of the current agreement.
- 4) opening an investigation as to whether any of the responsible individuals at Microsoft committed actionable acts.

I would recommend the following documents as interesting commentary on the proposed Microsoft settlement.

- An activist site- written by lawyers for the lay public:

<http://www.ccianet.org/papers/ms/sellout.php3>

-Robert Cringely (noted computer commentator on P.B.S. and all-around smart guy):

<http://www.pbs.org/cringely/pulpit/pulpit20011206.html>

-Sincerely
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